

## § 875.12

### § 875.12 Eligible lands and water prior to certification.

Noncoal lands and water are eligible for reclamation if:

(a) They were mined or affected by mining processes;

(b) They were mined and left or abandoned in either an unreclaimed or inadequately reclaimed condition prior to August 3, 1977;

(c) There is no continuing responsibility for reclamation by the operator, permittee, or agent of the permittee under statutes of the State or Federal Government or by the State as a result of bond forfeiture. Bond forfeiture will render lands or water ineligible only if the amount forfeited is sufficient to pay the total cost of the necessary reclamation. In cases where the forfeited bond is insufficient to pay the total cost of reclamation, monies sufficient to complete the reclamation may be sought under parts 886 or 888 of this chapter;

(d) The reclamation has been requested by the Governor of the State or equivalent head of the Indian tribe; and

(e) The reclamation is necessary to protect the public health, safety, general welfare, and property from extreme danger of adverse effects of noncoal mining practices.

[59 FR 28172, May 31, 1994]

### § 875.13 Certification of completion of coal sites.

(a) The Governor of a State, or the equivalent head of an Indian tribe, may submit to the Secretary a certification of completion expressing the finding that the State or Indian tribe has achieved all existing known coal-related reclamation objectives for eligible lands and waters pursuant to Section 404 of the Act (30 U.S.C. 1234), or has instituted the necessary processes to reclaim any remaining coal related problems. In addition to the above finding, the certification of completion shall contain:

(1) A description of both the rationale and the process utilized to arrive at the above finding for the completion of all coal-related reclamation pursuant to Section 403(a) (1) through (5).

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(2) A brief summary and resolution of all relevant public comments concerning coal-related impacts, problems, and reclamation projects received by the State or Indian tribe prior to preparation of the certification of completion.

(3) A State or Indian tribe agreement to acknowledge and give top priority to any coal-related problem(s) that may be found or occur after submission of the certification of completion and during the life of the approved abandoned mine reclamation program.

(b) After review and verification of the information contained in the certification of completion, the Director shall provide notice in the FEDERAL REGISTER and opportunity for public comment. After receipt and evaluation of all public comments and a determination by the Director that the certification is correct, the Director shall concur with the certification and provide final notice of such concurrence in the FEDERAL REGISTER. This concurrence shall be based upon the State's or Indian tribes commitment to give top priority to any coal problem which may thereafter be found or occur.

(c) Following concurrence by the Director, a State or Indian tribe may implement a noncoal reclamation program pursuant to provisions in Section 411 of SMCRA.

[59 FR 28172, May 31, 1994]

### § 875.14 Eligible lands and water subsequent to certification.

(a) Following certification by the State or Indian tribe of the completion of all known coal projects and the Director's concurrence in such certification, eligible noncoal lands, waters, and facilities shall be those—

(1) Which were mined or processed for minerals or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status prior to August 3, 1977. In determining the eligibility under this subsection of Federal lands, waters, and facilities under the jurisdiction of the Forest Service or Bureau of Land Management, in lieu of the August 3, 1977, date, the applicable date shall be August 28, 1974, and November 26, 1980, respectively; and

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(2) For which there is no continuing reclamation responsibility under State or other Federal laws.

(b) If eligible coal problems are found or occur after certification under § 875.13, a State or Indian tribe must address the coal problem utilizing State or Indian tribe share funds no later than the next grant cycle, subject to the availability of funds distributed to the State or Indian tribe in that cycle. The coal project would be subject to the coal provisions specified in Sections 401 through 410 of SMCRA.

[59 FR 28172, May 31, 1994]

### **§ 875.15 Reclamation priorities for noncoal program.**

(a) This section applies to reclamation projects involving the restoration of lands and water adversely affected by past mineral mining; projects involving the protection, repair, replacement, construction, or enhancement of utilities (such as those relating to water supply, roads, and other such facilities serving the public adversely affected by mineral mining and processing practices); and the construction of public facilities in communities impacted by coal or other mineral mining and processing practices.

(b) Following certification pursuant to § 875.13, the projects and construction of public facilities identified in paragraph (a) of this section shall reflect the following priorities in the order stated:

(1) The protection of public health, safety, general welfare and property from the extreme danger of adverse effects of mineral mining and processing practices;

(2) The protection of public health, safety, and general welfare from the adverse effects of mineral mining and processing practices; and

(3) The restoration of land and water resources and the environment previously degraded by the adverse effects of mineral mining and processing practices.

(c) Enhancement of facilities or utilities shall include upgrading necessary to meet local, State, or Federal public health or safety requirements. Enhancement shall not include, however, any service area expansion of a utility

or facility not necessary to address a specific abandoned mine land problem.

(d) Notwithstanding the requirements specified in paragraph (b) of this section, where the Governor of a State or the equivalent head of an Indian tribe, after determining that there is a need for activities or construction of specific public facilities related to the coal or minerals industry in States or on Tribal lands impacted by coal or minerals development, submits a grant application as required by paragraph (e) of this section and the Director concurs in such need, as set forth in paragraph (f) of this section, the Director may grant funds made available under section 402(g)(1) of the Act, 30 U.S.C. 1232, to carry out such activities or construction.

(e) To qualify for funding pursuant to the authority in paragraph (d) of this section, a State or Indian tribe must submit a grant application that specifically sets forth:

(1) The need or urgency for the activity or the construction of the public facility;

(2) The expected impact the project will have on the coal or minerals industry in the State or Indian tribe;

(3) The availability of funding from other sources and, if other funding is provided, its percentage of the total costs involved;

(4) Documentation from other local, State, and Federal agencies with oversight for such utilities or facilities regarding what funding resources they have available and why this specific project is not being fully funded by their agency;

(5) The impact on the State or Indian tribe, the public, and the minerals industry if the activity or facility is not funded;

(6) The reason why this project should be selected before a priority project relating to the protection of the public health and safety or the environment from the damages caused by past mining activities; and

(7) An analysis and review of the procedures used by the State or Indian tribe to notify and involve the public in this funding request and a copy of all comments received and their resolution by the State or Indian tribe.